

Adopted	Rejected
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COMMITTEE REPORT

YES:	22
NO:	0

MR. SPEAKER:

*Your Committee on Ways and Means, to which was referred House Bill 1604, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 6-9-2.5-7.5, AS AMENDED BY P.L.224-2007,
- 4 SECTION 94, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 5 JULY 1, 2009]: Sec. 7.5. (a) The county treasurer shall establish a
- 6 tourism capital improvement fund.
- 7 (b) The county treasurer shall deposit money in the tourism capital
- 8 improvement fund as follows:
- 9 (1) Before January 1, ~~2010~~, **2015**, the county treasurer shall
- 10 deposit in the tourism capital improvement fund the amount of
- 11 money received under section 6 of this chapter that is generated
- 12 by a three and one-half percent (3.5%) rate.
- 13 (2) After December 31, ~~2009~~, **2014**, the county treasurer shall
- 14 deposit in the tourism capital improvement fund the amount of

money received under section 6 of this chapter that is generated by a four and one-half percent (4.5%) rate.

(c) The commission may transfer money in the tourism capital improvement fund to:

(1) the county government, a city government, or a separate body corporate and politic in a county described in section 1 of this chapter; or

(2) any Indiana nonprofit corporation;

for the purpose of making capital improvements in the county that promote conventions, tourism, or recreation. The commission may transfer money under this section only after approving the transfer. Transfers shall be made quarterly or less frequently under this section.

SECTION 2. IC 6-9-2.5-7.7, AS AMENDED BY P.L.168-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7.7. (a) The county treasurer shall establish a convention center operating fund.

(b) Before January 1, ~~2010~~, **2015**, the county treasurer shall deposit in the convention center operating fund the amount of money received under section 6 of this chapter that is generated by a two percent (2%) rate. Money in the fund must be expended for the operating expenses of a convention center.

(c) After December 31, ~~2009~~, **2014**, the county treasurer shall deposit in the convention center operating fund the amount of money received under section 6 of this chapter that is generated by a one percent (1%) rate. Money in the fund must be expended for the operating expenses of a convention center with the unused balance transferred on January 1 of each year to the tourism capital improvement fund.

SECTION 3. IC 6-9-20-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) The fiscal body of the county may adopt an ordinance to impose an excise tax, known as the county food and beverage tax, on those transactions described in section 4 of this chapter.

(b) If a fiscal body adopts an ordinance under subsection (a), it shall immediately send a certified copy of the ordinance to the commissioner of the department of state revenue.

(c) If a fiscal body adopts an ordinance under subsection (a), the county food and beverage tax applies to transactions that occur after the

1 last day of the month that succeeds the month in which the ordinance
2 was adopted.

3 ~~(d) The tax terminates in a county on January 1 of the year~~
4 ~~immediately following the year in which the last of the bonds issued to~~
5 ~~finance the construction of an airport terminal and the last of any bonds~~
6 ~~issued to refund those bonds have been completely paid as to both~~
7 ~~principal and interest.~~

8 ~~(e) Notwithstanding subsection (d);~~ **(d) Except as provided in**
9 **subsection (e),** if the county fiscal body determines that the tax under
10 this chapter should be continued in order to finance improvements to
11 a county auditorium or auditorium renovation resulting in a new
12 convention center and related parking facilities, the tax ~~does not~~
13 ~~terminate as specified in subsection (d) but instead~~ continues until
14 January 1 of the year following the year in which the last of the bonds
15 issued to finance improvements to a county auditorium or auditorium
16 renovation resulting in a new convention center and related parking
17 facilities, and the last of any bonds issued to refund those bonds, have
18 been completely paid or defeased as to both principal and interest. An
19 action to contest the validity of the determination under this subsection
20 must be instituted not more than thirty (30) days after the
21 determination.

22 **(e) Notwithstanding subsection (d), if the county fiscal body**
23 **determines that the tax under this chapter should be continued to**
24 **finance the acquisition, construction, and equipping of an arena**
25 **and other facilities that serve or support the arena activities, the**
26 **tax does not terminate as specified in subsection (d) but continues**
27 **until January 1 of the year following the year in which the last of**
28 **the bonds issued to finance the acquisition, construction, and**
29 **equipping of the arena and other facilities that serve or support the**
30 **arena activities, and the last of any bonds issued to refund those**
31 **bonds, have been completely paid or defeased as to both principal**
32 **and interest. An action to contest the validity of the determination**
33 **under this subsection must be instituted not more than thirty (30)**
34 **days after the determination.**

35 SECTION 4. IC 6-9-20-7.5 IS AMENDED TO READ AS
36 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7.5. If:

37 ~~(+)~~ the treasurer of the airport authority has certified to the
38 treasurer of state that the last of the bonds issued to finance the

1 construction of an airport terminal and the last of any bonds
 2 issued to refund those bonds have been completely paid as to both
 3 principal and interest; and

4 (2) the county fiscal body has determined to continue the tax to
 5 finance improvements to a county auditorium or auditorium
 6 renovation resulting in a new convention center and related
 7 parking facilities **or to finance the acquisition, construction,**
 8 **and equipping of an arena and other facilities that serve or**
 9 **support the arena activities;**

10 the amounts received from the taxes imposed under this chapter shall
 11 be paid monthly by the treasurer of state to the county treasurer **under**
 12 **section 8.5 of this chapter or the fiscal officer of the largest**
 13 **municipality in the county under section 9.5 of this chapter** upon
 14 warrants issued by the auditor of state.

15 SECTION 5. IC 6-9-20-8.5 IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8.5. (a) If the tax
 17 imposed under section 3 of this chapter is continued to finance
 18 improvements to the county auditorium or auditorium renovation
 19 resulting in a new convention center and related parking facilities, the
 20 county treasurer shall establish an auditorium fund.

21 (b) **Except as provided in sections 8.8 and 9.5 of this chapter,** the
 22 county treasurer shall deposit in this fund all amounts received under
 23 this chapter.

24 (c) Any money earned from the investment of money in the fund
 25 becomes a part of the fund.

26 (d) Money in the fund shall be used by the county for the financing,
 27 construction, renovation, improvement, and equipping of a county
 28 auditorium or auditorium renovation resulting in a new convention
 29 center and related parking facilities.

30 SECTION 6. IC 6-9-20-8.8 IS ADDED TO THE INDIANA CODE
 31 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 32 1, 2009]: **Sec. 8.8. (a) If the tax imposed under section 3 of this**
 33 **chapter is continued to finance the acquisition, construction, and**
 34 **equipping of an arena and other facilities that serve or support the**
 35 **arena activities, the county treasurer shall determine whether**
 36 **there is any food and beverage tax revenue under this chapter that**
 37 **is not required to be deposited and held to:**

38 (1) pay any debt service on bonds issued or rentals on leases

1 entered into by January 1, 2009, for which a pledge of
 2 revenues of the food and beverage tax has been made by the
 3 county as set forth in section 8.7 of this chapter; or

4 (2) provide for a debt service reserve related to the bonds or
 5 leases described in subdivision (1).

6 (b) Before the twentieth day of each month, the county treasurer
 7 shall determine whether there is excess food and beverage tax
 8 revenue under subsection (a) and by the last day of that month
 9 transfer the excess food and beverage tax revenue to the fiscal
 10 officer of the largest municipality in the county. The municipal
 11 fiscal officer shall deposit the excess food and beverage tax revenue
 12 in a municipal arena fund. Any money earned from the investment
 13 of money in the municipal arena fund becomes a part of the
 14 municipal arena fund. Money in the municipal arena fund shall be
 15 used by the largest municipality in the county for financing the
 16 acquisition, construction, and equipping of an arena and other
 17 facilities that serve or support the arena activities. This money
 18 shall be retained in the municipal arena fund until applied or
 19 transferred to another fund pledged to the payment of debt service
 20 on bonds, rent on leases, or other obligations incurred to finance
 21 the facilities.

22 SECTION 7. IC 6-9-20-8.9 IS ADDED TO THE INDIANA CODE
 23 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 24 1, 2009]: **Sec. 8.9. (a) If the tax imposed under section 3 of this**
 25 **chapter is continued to finance the acquisition, construction, and**
 26 **equipping of an arena and other facilities that serve or support the**
 27 **arena activities, the largest municipality in the county may issue**
 28 **bonds, enter into leases, or incur other obligations to:**

29 (1) pay any costs associated with the financing, acquisition,
 30 construction, and equipping of the arena and other facilities
 31 that serve or support the arena activities; or

32 (2) refund bonds issued or other obligations incurred under
 33 this chapter so long as any bonds issued or other obligations
 34 incurred to refund bonds or retire other obligations do not
 35 extend the date when the previous bonds or other obligations
 36 will be completely paid as to principal and interest.

37 (b) Bonds issued or other obligations incurred under this
 38 section:

(1) are payable from money provided in this chapter, any other revenues available to the municipality, or any combination of these sources;

(2) must be issued in the manner prescribed by IC 36-4-6-19 through IC 36-4-6-20;

(3) may not have a term ending more than thirty (30) years after the first February 1 following the date on which construction of the arena and other facilities that serve or support the arena activities is estimated to be completed;

(4) may be payable at any regular designated intervals and may be paid in unequal amounts if the municipality reasonably expects to pay the debt service from funds other than property taxes that are exempt from the levy limitations of IC 6-1.1-18.5 (even if the municipality has pledged to levy property taxes to pay the debt service if those other funds are insufficient); and

(5) may, in the discretion of the municipality, be sold at a negotiated sale at a price to be determined by the municipality or in accordance with IC 5-1-11 and IC 5-3-1.

(c) Leases entered into under this section:

(1) may be for a term ending not later than thirty (30) years after the first February 1 following the date on which construction of the arena and other facilities that serve or support the arena activities is estimated to be completed;

(2) may be payable at any regular designated intervals and may be paid in unequal amounts if the municipality reasonably expects to pay the lease rentals from funds other than property taxes that are exempt from the levy limitations of IC 6-1.1-18.5 (even if the municipality has pledged to levy property taxes to pay the lease rentals if those other funds are insufficient);

(3) may provide for payments from revenues under this chapter, any other revenues available to the municipality, or any combination of these sources;

(4) may provide that payments by the municipality to the lessor are required only to the extent and only for the time that the lessor is able to provide the leased facilities in accordance with the lease;

1 (5) must be based upon the value of the facilities leased; and
2 (6) may not create a debt of the municipality for purposes of
3 the Constitution of the State of Indiana.

4 (d) A lease may be entered into by the municipal executive after
5 a public hearing of the municipal fiscal body at which all interested
6 parties are provided the opportunity to be heard. After the public
7 hearing, the municipal executive may approve the execution of the
8 lease on behalf of the municipality only if:

9 (1) the municipal executive finds that the service to be
10 provided throughout the life of the lease will serve the public
11 purpose of the municipality and is in the best interests of its
12 residents; and

13 (2) the lease is approved by an ordinance of the municipal
14 fiscal body.

15 (e) An action to contest the validity of bonds issued or leases
16 entered into under this section must be brought not later than
17 thirty (30) days after the adoption of a bond ordinance or the
18 municipal executive's action approving the execution of the lease.

19 (f) Notwithstanding the provisions of this chapter or any other
20 law, instead of issuing bonds, entering into leases, or incurring
21 obligations in whole or in part under this chapter, the largest
22 municipality in the county may cause bonds to be issued, leases to
23 be entered into, or obligations to be incurred under this subsection
24 to finance the acquisition, construction, and equipping of an arena
25 and other facilities that serve or support the arena. The bonds,
26 leases, or obligations:

27 (1) must be issued, entered, or incurred by any special taxing
28 district, agency, department, or instrumentality of or in the
29 municipality, under any other law by which bonds may be
30 issued, leases may be entered, or obligations incurred;

31 (2) must be payable from money provided under this chapter,
32 from any other revenues available to the municipality or any
33 special taxing district, agency, department, or instrumentality
34 of or in the municipality, or any combination of these sources;

35 (3) must have a term ending not later than thirty (30) years
36 after the first February 1 following the date on which
37 construction of the arena and other facilities that serve or
38 support the arena activities is estimated to be completed; and

(4) may be payable at any regular designated intervals and may be paid in unequal amounts if the municipality, special taxing district, agency, department, or instrumentality of or in the municipality reasonably expects to pay the debt service or lease rentals from funds other than property taxes that are exempt from the levy limitations of IC 6-1.1-18.5 (even if the municipality or any special taxing district, agency, department, or instrumentality of or in the municipality has pledged to levy property taxes to pay the debt service or lease rentals if those other funds are insufficient).

SECTION 8. IC 6-9-20-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. With respect to

(1) bonds for which a pledge of airport authority revenues has been made by the airport authority; the Indiana general assembly covenants with the airport authority and the purchasers of those bonds that:

(A) this chapter will not be repealed or amended in any manner that will adversely affect the imposition or collection of the tax imposed by this chapter; and

(B) this chapter will not be amended in any manner that will change the purpose for which revenues from the tax imposed by this chapter may be used;

as long as the principal of or interest on any of those bonds is unpaid; and

(2) bonds, leases, or other obligations for which a pledge of revenues of the food and beverage tax imposed under this chapter has been made by the county as set forth in section 8.7 or 8.9 of this chapter, and bonds issued by a lessor that are payable from lease rentals, the general assembly covenants with the county, **the largest municipality in the county**, and the purchasers or owners of the bonds or other obligations described in this subdivision that this chapter will not be repealed or amended in any manner that will adversely affect the imposition or collection of the food and beverage tax imposed by this chapter as long as the principal of any bonds, the interest on any bonds, or the lease rentals due under any lease are unpaid.

SECTION 9. IC 6-9-20-9.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY

1, 2009]: **Sec. 9.5. If:**

(1) the county treasurer has certified to the treasurer of state that:

(A) the last of the bonds issued to finance the improvements to a county auditorium or auditorium renovation resulting in a new convention center and related parking facilities; and

(B) the last of any bonds issued to refund the bonds referred to in clause (A);

have been completely paid or defeased as to both principal and interest; and

(2) the county fiscal body has made a determination to continue the tax to finance the acquisition, construction, and equipping of an arena and other facilities that serve or support the arena activities;

the amounts received from the taxes imposed under this chapter shall be paid monthly by the treasurer of state to the fiscal officer of the largest municipality in the county upon warrants issued by the auditor of state. The fiscal officer shall deposit any amounts received under this section in the municipal arena fund.

SECTION 10. IC 6-9-20-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 11. The financing of:

(1) improvements to a county auditorium or auditorium renovation resulting in a new convention center and related parking facilities; and

(2) the acquisition, construction, and equipping of an arena and other facilities that serve or support the arena activities;

serves a public purpose and is of benefit to the general welfare of the county by enhancing cultural activities and improving the quality of life in the county and encouraging investment, economic growth, and

- 1 diversity."
- 2 Page 6, line 40, after ":" insert "IC 6-9-20-7; IC 6-9-20-8;".
- 3 Renumber all SECTIONS consecutively.
(Reference is to HB 1604 as printed February 11, 2009.)

and when so amended that said bill do pass.

Representative Crawford